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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/145,690	09/02/1998	CHARLES J. LONG JR.	97-106CIP	6264

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 09/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

LC

**Office Action Summary**

Application No.

09/145,690

Applicant(s)

LONG JR., CHARLES J.

Examiner

Robin Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 June 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-12,14 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-12,14 and 16-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

1. Applicant's requested amendment at page 19, lines 3-22 has not been entered since it does not conform to 37 CFR 1.121. Applicant is required to provide a new abstract.

#### *Specification*

2. The abstract of the disclosure is objected to because it exceeds the 150-word limit. Correction is required. See MPEP § 608.01(b).

#### *Claim Objections*

3. Claims 1 and 25 are objected to because of the following informalities:

In line 17 of each claim, the period should be deleted; and

In line 22, -- the -- or -- said -- has been omitted before "frangible elements". Appropriate correction is required.

#### *Terminal Disclaimer*

4. The terminal disclaimer filed on June 18 2002 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,059,134 has been reviewed and is accepted. The terminal disclaimer has been recorded.

#### *Claim Rejections - 35 USC § 102*

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 3//1, 5/3/1, 7/1, 22/1, 25, 3/25, 5/3/25, and 22/25 are rejected under 35 U.S.C. 102(b) as being anticipated by Perchepied (US 5,609,263).

Closure top portion 3 has an annular skirt 3a having an internal screw thread 8, an inner annular sealing flange 10, and a tamper indicating ring 20 connected to said skirt by a frangible element 21 having an elevated area of the tamper indicating ring extending toward the depending skirt, said tamper indicating ring having at least one arcuate projection 24 and at

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least one nonremovable member **23** breakably attached to the tamper indicating ring at a weakened area **22a**. The at least one arcuate projection **24** to the left of the slot **22** as seen in fig.2 cooperates with the nonremovable member to fracture the weakened area **22a**.

The at least one arcuate projection is arcuate in a circumferential direction extending around the tamper indicating ring (fig.1). The uppermost surface of the projection is a locking member.

***Claim Rejections - 35 USC § 103***

7. Claims 11/1, 11/25, 14/11/1, and 14/11/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perchepied in view of Montgomery (US 5,379,910).

Perchepied teaches the claimed closure (and container) except for an annular bead extending from the closure skirt for engaging a sealing groove or a sealing bead on the exterior container neck.

Figures 3-5 of Montgomery teaches a closure comprising an annular bead **40** extending from the closure skirt for contacting at least a portion of the exterior container neck finish. The annular bead is seen as engaging a groove in fig.4 and a bead **30** in fig. 5.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of an annular bead extending from the closure skirt for contacting at least a portion of the exterior of the container neck finish, including a sealing groove or a sealing bead, to the closure of Perchepied. Doing so would provide an additional seal between the closure and the container.

8. Claims 17/1, 17/25, 19/1, and 19/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perchepied in view of Repp et al. (US 5,593,055).

Perchepied teaches the claimed closure except for the number of thread leads and the thread leads being segmented.

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Repp teaches a container assembly comprising at least seven thread leads and that the threads can be segmented (col. 4, lines 40-46).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the closure of Perchepied with eight or nine thread leads, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art, and to make the threads segmented is an obvious variation of thread arrangement.

9. Claims 1, 3/1, 5/3/1, 7/1, 22/1, 25, 3/25, 5/3/25, 22/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kern (US 4,448,319) in view of Perchepied.

Kern discloses a(n initially) snap-on, twist-off closure comprising a top portion, an annular depending skirt having an internal thread configuration, and an annular sealing flange depending from the top portion. Kern does not teach a tamper indicating ring.

Perchepied teaches it is known to provide a closure with a tamper indicating ring.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of a tamper indicating ring to the closure of Kern. Doing so would ensure the integrity of the container contents prior to use by the ultimate consumer.

10. Claims 9/1 and 9/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 or 25 above, and further in view Csaszar (US 4,343,408).

Kern as modified teaches the claimed closure (or container assembly) except for a sealing bead on the annular sealing flange.

Figure 6 of Csaszar teaches an annular sealing flange comprising an annular sealing bead for ensuring firm contact between the closure bead and the interior surface of the container neck (column 8, lines 3-6).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of an annular sealing flange comprising an annular sealing bead to the modified closure of Kern. Doing so would provide a sealing engagement with the internal surface of the container neck without an engagement between a majority portion of the annular sealing flange and the container neck.

11. Claims 11/1, 11/25, 14/11/1, and 14/11/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1, 11/1, 11/25, and further in view of Montgomery.

Kern as modified teaches the claimed closure except for an annular bead extending from the closure skirt for engaging a sealing groove or a sealing bead on the exterior container neck.

Figures 3-5 of Montgomery teaches a closure comprising an annular bead **40** extending from the closure skirt for contacting at least a portion of the exterior container neck finish. The annular bead is seen as engaging a groove in fig.4 and a bead **30** in fig. 5.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of an annular bead extending from the closure skirt for contacting at least a portion of the exterior of the container neck finish, including a sealing groove or a sealing bead, to the modified closure of Kern. Doing so would provide an additional seal between the closure and the container.

12. Claims 17/1, 17/25, 19/1, and 19/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 or 25 above, and further in view of Repp.

Kern as modified teaches the claimed closure except for the number of thread leads and the thread leads being segmented.

Repp teaches a container assembly comprising at least seven thread leads and that the threads can be segmented (col. 4, lines 43-46).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to further provide the closure of Kern with eight or nine thread leads, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art, and to make the threads segmented is an obvious variation of thread arrangement.

***Allowable Subject Matter***

13. Claims 7/25, 8/6/4/3/1, 10/8/6/4/3/1, 12/10/8/6/4/3/1, 15/12/10/8/6/4/3/1, 16/12/10/8/6/4/3/1, 18/12/10/8/6/4/3/1, 20/18/12/10/8/6/4/3/1, 8/6/4/3/25, 10/8/6/4/3/25, 12/10/8/6/4/3/25, 15/12/10/8/6/4/3/25, 16/12/10/8/6/4/3/25, 18/12/10/8/6/4/3/25, 20/18/12/10/8/6/4/3/25 appear to be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 1<sup>st</sup> and/or 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

14. Applicant's arguments filed June 18, 2002 have been fully considered but they are not persuasive. Applicant argues the patent to Perchepped does not teach an elevated area extending axially towards the depending skirt. As pointed out above, figure 2 depicts an elevated area extending axially towards the depending skirt on either side of the frangible element 21.

***Conclusion***

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

17. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 305-3579 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner can normally be reached on Monday - Friday from 8:00 a.m. to 2:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.



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If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH  
September 16, 2002



Robin A. Hylton  
Patent Examiner  
GAU 3727